

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**
Washington, DC 20554

In the Matter of:)	
)	
Telecommunications Carriers Eligible to Receive)	WC Docket No. 09-197
Universal Service Support)	
)	
Petition of Heart of the Catskills Communications, Inc.)	
D/B/A MTC Cable for Eligible Telecommunications)	
Carrier Status in the State of New York)	

**PETITION FOR ELIGIBLE
TELECOMMUNICATIONS CARRIER DESIGNATION**

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Communications, Inc. d/b/a MTC
Cable*

June 29, 2018

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**PETITION FOR ETC DESIGNATION OF
HEART OF THE CATSKILLS COMMUNICATIONS, INC. D/B/A MTC CABLE**

Pursuant to Section 214(e)(6) of the Communications Act, as amended,¹ and Commission rules,² Heart of the Catskills Communications, Inc. d/b/a MTC Cable (“MTC”) requests designations as an Eligible Telecommunications Carrier (“ETC”) status in the State of New York in all areas in which it has been awarded Connect America Fund (“CAF”) Phase II support via the New NY Broadband Program.³

I. INTRODUCTION AND SUMMARY

On January 31, 2018, the New York Broadband Program Office announced that MTC was awarded support to serve 1,659 locations in New York through a combination of private, state, and CAF support.⁴ MTC’s \$11 million project includes a combination of equity funding, a New York State grant and \$4,276,982 of federal CAF support. Under the terms of the FCC Order allocating unclaimed New York State CAF funding to the New York Broadband program,

¹ 47 U.S.C. § 214(e)(6).

² See, e.g., 47 C.F.R. § 54.101(a), § 54.202

³ See *Connect America Fund, et al.*, Order, 32 FCC Rcd 968 (2017) (“*New York CAF Order*”).

⁴ See “Governor Cuomo Announces Round III of Nation-Leading New NY Broadband Program to Bring High-Speed Internet Access to All New Yorkers,” Press Release (Jan. 31, 2018) (“New York January 2018 Press Release”), <https://www.governor.ny.gov/news/governor-cuomo-announces-round-iii-nation-leading-new-ny-broadband-program-bring-high-speed>

MTC's receipt of federal CAF support requires the company to be certified as an ETC and to meet the requirements imposed on such carriers, including the offering of certain services as a common carrier, including telephone and Lifeline services. At this time, MTC is seeking to limit its designation as an ETC provider to those areas that it has been awarded CAF funding but may seek designation in additional areas should it be awarded future CAF funding or seek to serve Lifeline subscribers in areas not incorporated in this Petition. Grant of this Petition is in the public interest because it will allow MTC to bring high quality competitive services to subscribers, including those eligible for Lifeline services, in the communities in which it seeks ETC designation.

All inquiries concerning this application should be made to:

Glen Faulkner, President and General Manager
Heart of the Catskills Communications, Inc.
PO Box 260 / 50 Swart Street
Margaretville, NY 12455

Because it is required to receive ETC-designation within 180 days of receipt of a CAF award,⁵ MTC respectfully requests that it be granted ETC-designation without undue delay.

Heart of the Catskills Communications, Inc. d/b/a MTC Cable is a New York company organized and registered in Delaware County. The address of the company is 50 Swart St., Margaretville, NY 12455. MTC provides broadband, video, and VOIP phone services. MTC is wholly owned by the Margaretville Telephone Company, Inc., an ETC-designated provider of incumbent telephone services in and around Margaretville, NY. Margaretville Telephone Company also wholly owns Catskills Communications, Inc. also a provider of voice services.

On August 10, 2017, MTC applied to the New York Broadband Program Office for funding to provide broadband services in exchanges served by Verizon. In its application for

⁵ 47 C.F.R. § 54.315(b)(5)

funding, the company committed to meeting certain deployment milestones and, as a condition for receiving CAF funding in the Verizon exchanges, is also required to provide telecommunications services and obtain ETC designation within 180 days of its award.⁶

As discussed in detail below, the Commission has the authority to grant MTC ETC designation pursuant to Section 214(e)(6) and MTC meets all the statutory and regulatory requirements for such designation. Designation of MTC as an ETC to receive CAF support via the New NY Broadband Program will service the public interest by allowing MTC to receive support to serve the areas that it is obligated to serve pursuant to its New York award, thereby expanding the availability of advanced broadband and communications services to areas currently identified as underserved. A list of census blocks for which the company is seeking ETC designation is provided in **Exhibit 1** of this Application.

II. COMMISSION AUTHORITY FOR DESIGNATION AS AN ETC

Pursuant to Section 214(e)(6), the Commission may designate an ETC where the applicant “is not subject to the jurisdiction of a State commission.”⁷ Pursuant to letter dated June 27, 2018, the New York State Public Service affirmed that it lacks jurisdiction to issue ETC designation to MTC. That letter is included as **Attachment A** of this petition. Accordingly, MTC is submitting its request to the Commission and MTC requests that the Commission approve this petition without delay.

⁶ *New York CAF Order*, paragraph 59.

⁷ *See id.* § 214(e)(6).

III. MTC QUALIFIES FOR DESIGNATION AS AN ETC

As described herein, MTC meets the requirements for designation as an ETC as established under the statute and FCC rules.

1. MTC Will Provide Service as a Common Carrier

MTC will provide each of the services supported by the Federal High Cost Universal Service Program, as set forth in Section 214(e) of the Act and Section 54.101(a) of the Federal Communications Commission's rules. For purposes of this designation, MTC will provide service on a common carrier basis. MTC currently provides broadband Internet access service and interconnected voice over IP ("VoIP") service to its customers. As to customers and locations where MTC is awarded support, MTC will provide its voice service on a common carrier basis. MTC will advertise and make available a "universal service" offering that includes all of the supported services for consumers in the designated service areas in New York. Accordingly, MTC certifies that it is a common carrier under 47 U.S.C. §§ 214(e)(1) and 214(e)(6) for purposes of ETC designation.

2. MTC Will Offer Services Supported by the Federal Universal Service Support Mechanisms

Pursuant to §54.101(a) and (b), MTC will provide voice services that meet the following requirements:

- a. Voice-Grade Access to the Public Switched Network – MTC will provide voice-grade access, or its functional equivalent, to the public switched network. MTC will have the capability to originate and terminate local and long distance telephone service for all of its subscribers.
- b. Local Usage – MTC will offer unlimited local calling to all of its subscribers.
- c. Access to Emergency Service – MTC will offer access to emergency service throughout its service area by dialing 911. Enhanced 911 ("E911"), which includes the capability of providing both automatic numbering information

(“ANI”) and automatic location information (“ALI”), is required if a public emergency service provider makes arrangements for the delivery of such information. Therefore, MTC meets the requirement to provide access to emergency service.

Pursuant to §54.101(a)(2), MTC will provide broadband services with the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service. Company broadband speeds will meet or exceed FCC required speed and usage allowances for fixed broadband offerings.

Pursuant to §54.101(d), MTC will offer Lifeline service to Qualifying Low-income Consumers as required by the Commission’s rules at all locations where it has been awarded support including toll blocking to meet the FCC’s requirement.

3. MTC Will Provide Services Using Its Own Facilities

Pursuant to 54.201(d)(1) MTC states that it will offer the services that are supported by federal universal service support mechanisms using a combination of its own facilities and resale of another carrier’s services; it will provide supported services using MTC’s network infrastructure, consisting of last mile loop and transport, and network equipment, and network components leased from other carriers including its affiliate, Catskills Communications. MTC intends to use its own facilities for last mile connections with its subscribers and for critical back haul services between its customer-facing nodes and both the internet and its telephone switch network. MTC will lease switching capability and some inter-office transport from its affiliate and anticipates that it may lease additional facilities from other carriers as necessary to increase network redundancy and efficiency.

4. MTC Will Provide Service Throughout its Designated Service Area

MTC commits to provide the supported services throughout its designated service area consistent with applicable requirements. MTC's requested designation ETC service area is the area where it was awarded CAF support through the New NY Broadband Program.

5. MTC Will Advertise the Availability of Its ETC Required Service Offerings and Charges Using Media of General Distribution

Pursuant to §54.201(d)(2) MTC will advertise the availability of its ETC required service offerings and the associated charges using media of general distribution. The company will use these media, as necessary, to insure that consumers within its designated service area are fully informed of its services. As a locally owned provider of services in the very communities it serves, MTC is financially vested in its market and is uniquely capable of meeting the needs of that market.

6. MTC Meets the Additional Requirements for Designation as an ETC

Compliance with Applicable Service Requirements. Pursuant to §54.202(a)(1)(i) an affidavit supporting that MTC will comply with the service requirements applicable to the support that it receives is provided in **Exhibit 2** of this Application. MTC anticipates that it will receive \$4,276,982 from the CAF and \$4,877,134 from the New York Broadband Program Office to support its designated service areas. Its petition is made to give the company access to a full range of options for its subscribers by allowing the company to access federal funds for the stated intent.

Five-Year Plan. Pursuant to §54.202(a)(1)(ii) a five year plan detailing its intended operating areas including population estimates was provided in its application for funding from the New York Broadband Program Office. MTC certifies that it will provide service to the

locations for which it has been awarded support consistent with the deployment obligations associated with such support. Should the Commission request additional information of this plan by provided, MTC will do so upon request.

Ability to Remain Functional in an Emergency Situation. Pursuant to §54.202(a)(2) MTC states that it is capable of remaining functional in an emergency. MTC is wholly owned by Margaretville Telephone Company, an incumbent local service provider in the LATA in which it seeks designation. It utilizes the same disaster recovery plan for its competitive network as it does for its incumbent provider. Its equipment operates on a redundant basis and its network is, and will be, deployed on as diverse a route as financially practical. MTC states that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged ringed facilities, and is capable of managing traffic spikes resulting from emergency situations. To the extent that its services require commercial power at the customer premises, its end user equipment is deployed to support at a minimum, an 8-hour battery backup with options available to extend battery back-up times.

Consumer Protection and Service Quality Standards. Pursuant to §54.202(a)(3) MTC will satisfy consumer protection and service quality standards. MTC anticipates that its service quality and variety of offerings will be its primary sales advantage in its market. Accordingly, the company intends to meet or exceed service quality standards. MTC will adhere to all applicable state and federal laws regarding, but not limited to, consumer protection. As previously noted, MTC will share the same employees and procedures with its parent company, Margaretville Telephone Company, and accordingly brings a level of experience that allows it to meet or exceed consumer standards.

IV. ETC DESIGNATION WILL ADVANCE THE PUBLIC INTEREST

MTC is seeking ETC designations in those areas which have been identified as lacking in suitable broadband options by the state of New York. By obtaining ETC designation, MTC will be eligible to receive both the New York and federal funds that it needs to successfully serve its target areas. Indeed, the receipt of federal funding is a critical requirement of its business model in its target areas.

MTC seeks ETC designation in the exchanges served by Verizon and is not seeking designation in any service areas operated by rural Incumbent Local Exchange Carriers (ILECs). In areas served by non-rural ILECs a finding of advancing the public interest is not required,⁸ however designation of MTC as an ETC would promote competition and facilitate the provision of advanced communications services and the use of innovative technologies to residents of these New York exchanges. Therefore, designation of MTC as an ETC will serve the public interest.

V. MTC CERTIFICATION OF THE DISPOSITION OF FEDERAL UNIVERSAL SERVICE FUNDING.

MTC certifies that it will use federal universal support “only for the provision, maintenance and upgrading of facilities and service for which the support is necessary” consistent with Section 254(e) of the Telecommunications Act of 1996. The Affidavit (attached hereto as **Exhibit 2** from Glen Faulkner) certifies such and fully describes the telecommunications services MTC will offer.

VI. ANTI-DRUG ABUSE CERTIFICATION.

MTC certifies that no party to this Petition is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, and Sections

⁸ 47 USC §54.201(c)

1.2001-1.2003 of the Federal Communications Commission's rules, 47 C.F.R. §§ 1.2001-1.2003.

See Exhibit 2.

VII. CONCLUSION.

WHEREFORE, for the reasons set forth above, MTC respectfully requests that the Commission issue an order as soon as is practicable designating MTC as an Eligible Telecommunications Carrier throughout the service areas identified in **Exhibit 2** of this Application.

Respectfully submitted,



Glen Faulkner, President and General Manager

Attachment A

Letter from the State of New York Regarding Jurisdiction



**Department of
Public Service**

Public Service Commission

John B. Rhodes

Chair and

Chief Executive Officer

Gregg C. Sayre

Diane X. Burman

James S. Alesi

Commissioners

Thomas Congdon

Deputy Chair and

Executive Deputy

Paul Agresta

General Counsel

Kathleen H. Burgess

Secretary

Three Empire State Plaza, Albany, NY 12223-1350

www.dps.ny.gov

June 27, 2018

TO WHOM IT MAY CONCERN:

Re: Heart of the Catskills Communications, Inc. d/b/a MTC Cable Broadband and
Voice over Internet Protocol (VoIP) Jurisdiction

We have received a request from Heart of the Catskills Communications, Inc. d/b/a MTC Cable, a provider of broadband and VoIP services, requesting a statement that the New York State Public Service Commission does not exercise jurisdiction over broadband or VoIP services for the purpose of making determinations regarding Competitive Eligible Telecommunications Carrier (CETC) designations under section 214(e)(6) of 47 U.S.C. At this time, the New York State Public Service Commission does not certify broadband or VoIP providers.

Consequently, based on the representation by Heart of the Catskills Communications, Inc. d/b/a MTC Cable that it provides only broadband and VoIP services, it is not at this time subject to New York State Public Service Commission jurisdiction for the purpose of making a CETC designation.

Sincerely,

A handwritten signature in blue ink that reads "Debra LaBelle".

Debra LaBelle

Director

Office of Telecommunications

cc: Hon. Kathleen Burgess, Secretary
Ruvain Kudan, Office of Telecommunications
Graham Jesmer, Assistant Counsel

EXHIBIT 1
LIST OF CENSUS

Census Block ID	Census Block ID	Census Block ID
360259701002000	360390804021037	360957408002027
360259701002001	360390804021038	360957408002029
360259701002007	360390804021041	360957408002030
360259701002009	360390804021043	360957408002032
360259701002010	360390804021047	360957408002036
360259701002016	360390804021048	360957408002039
360259701002017	360390804021049	360957408002041
360259701002018	360390804021053	360957408002042
360259701002028	360390804021058	360957408002049
360259701002033	360390804021060	360957408002060
360259701002034	360390804021063	360957408002063
360259701002049	360390804021066	360957408002064
360259701002051	360390804021067	360957408002065
360259701004058	360390804021068	360957408002080
360259706004038	360390804021069	360957408002081
360259706004076	360390804021070	360957408003175
360259710001046	360390804021072	360957408003181
360259710001059	360390804021075	360957408004000
360259710003049	360390804021076	360957408004001
360259710003062	360390804021077	360957408004004
360259710003063	360390804021082	360957408004005
360259710003064	360390804021083	360957408004008
360259710003065	360390804021085	360957408004009
360259710003071	360390804021090	360957408004010
360259710003072	360390804021092	360957408004011
360259710003074	360390804021104	360957408004017
360259710003075	360390804021121	360957408004018
360259711001000	360390804021122	360957408004019
360259711001017	360390804021127	360957408004020
360259711001019	360390804021128	360957408004024
360259711001020	360390804021131	360957408004025
360259711001030	360390804021134	360957408004034
360259711001035	360390804021135	360957408004035
360259711001037	360390804021139	360957408004036
360259711001040	360390804022028	360957408004041
360259711001041	360390804022030	360957408004042
360259711001043	360390804022031	360957408004046
360259711001049	360390804022072	360957408004050
360259711001060	360390804022077	360957408004051
360259711003018	360390804022078	360957408004054
360259711003022	360390804022079	360957408004055
360259713001068	360390804022096	360957408004056
360259713001070	360957406002135	361059502001014
360259713001072	360957406003020	361059502001015
360259713001201	360957406003030	361059502001027
360390804021001	360957406004069	361119509001014
360390804021002	360957408001056	361119509001022
360390804021006	360957408001068	361119509001025
360390804021008	360957408001102	361119509001026
360390804021009	360957408002002	361119509001029
360390804021011	360957408002005	361119509001030
360390804021013	360957408002006	361119509001031
360390804021014	360957408002007	361119509001039
360390804021015	360957408002012	361119509001040
360390804021017	360957408002013	361119509001132
360390804021019	360957408002014	361119509002058
360390804021025	360957408002023	361119509002080
360390804021026	360957408002024	
360390804021033	360957408002025	
360390804021035	360957408002026	

EXHIBIT 2

Declaration of Glen Faulkner

Declaration of Glen Faulkner

Pursuant to 47 C.F.R. § 1.16, I, Glen Faulkner, do declare under penalty of perjury the following is true and correct.

1. I am Glen Faulkner, President and General Manager Heart of the Catskills Communications, Inc. d/b/a MTC Cable ("MTC"). The foregoing "Petition of Heart of the Catskills Communications, Inc. d/b/a MTC Cable for Designation as an Eligible Telecommunications Carrier in the State of New York" has been prepared under my direction, supervision and control. The factual statements and representations contained therein are true and accurate to the best of my knowledge and belief.
2. MTC intends to obtain low income universal service support funding upon receipt of ETC designation and will use federal universal support only for the provision, maintenance and upgrading of facilities and services for which the support is necessary consistent with Section 254 (e) of the Telecommunications Act of 1996.
3. MTC will be capable of providing all of the service offerings required by and set forth in Section 214 (e) of the Communications Act of 1934, as amended, for "eligible telecommunications carriers."
4. Anti-Drug Abuse Certification: To the best of my knowledge, the applicant referred to in the foregoing Petition, including all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the applicant as specified by Section 1.2002 (b) of the Federal Communications Commission's rules, are not subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.



Glen Faulkner, President and General Manager
Heart of the Catskills Communications, Inc. d/b/a
MTC Cable

COUNTY OF Delaware)
STATE OF New York)

Subscribed and sworn to before me by Glen Faulkner on this 21st day of May, 2018.

NOTARY PUBLIC

Name Anne A. VanLoan

Signature Anne A. VanLoan

Commission expiration 10/28/2021

ANNE A. VAN LOAN
Notary Public, State of New York
No. 01VA6292100
Qualified in Delaware County
Term Expires October 28, 2021